THE HONOURABLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No. 24887 of 2006.

DATED: 29-11-2006

Between:

P.Raja Babu.

...Petitioner

and

The Depot Manager, APSRTC,
Ravulapalem,
East Godavari District and another.

...Respondents.

THE HON'BLE SRI JUSTICE N.V.RAMANA

W.P.No.24887 of 2006.

Oral order:

The petitioner, while working in A.P.S.R.T.C., was removed from service on the ground of absenteeism. Against the said removal order, he filed I.D. No. 9 of 2003, and the Labour Court allowed the said I.D, and directed his reinstatement into service. At the time of reinstatement, during medical examination, as the petitioner was found unfit to hold the post of Driver on the ground of defective distant vision of left eye, he was not permitted to duty. Therefore, the petitioner preferred review petition to the Medical Board, Tarnaka Hospital, Hyderabad, and the Medical Officer, Tarnaka, vide letter dated 25.10.2005, also opined that the petitioner was unfit for A1-category driver due to defective distant vision of left eye. Thereafter, the petitioner made a representation, dated 20.11.2005, requesting the respondents to provide suitable alternative employment as per the provisions of Section 47 of the Persons with Disabilities (equal opportunity, protection of rights, full participation) Act, 1995 (for short 'the Act'). But, the 1st respondent, without considering the said representation, issued the impugned office order dated 23.12.2005, retiring the petitioner from service on medical grounds with effect from 06.10.2004. Aggrieved by the same, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

The facts are not in dispute. The petitioner, who was declared as medically unfit to hold the post of Driver on the ground of defective vision of left eye, is entitled for

alternative employment as per the provisions of Section 47 of the Act. That apart, a Division Bench of this Court in ***N. Siva Kumar v. APSRTC, Musheerabad, Hyderabad***[1], considered similar issue and directed the authorities to consider the case of the employee in the light of the provisions of the Act for alternative employment. The relevant portion reads as under;

> "Having regard to the fact that a right has been conferred upon the appellant herein under a statute, although the question raised herein has not been raised before the learned single Judge, we, in modification of the order passed by the learned single Judge, direct the appellant herein to file a representation, if not already filed, before the appropriate authority seeking the relief prayed for in this appeal, and on receipt of such a representation, the appropriate authority may consider the case of the appellant in the light of the aforementioned provisions and the decisions referred to hereinbefore, and pass an appropriate order at an early date, preferably within a period of four (4) weeks from the date of communication of this order."

In that view of the matter, I deem it appropriate to dispose of the writ petition with the following direction.

The respondents-Corporation is directed to reconsider the issue by considering the representation of the petitioner, dated 20.11.2005 for providing alternative employment in view of his medical unfitness in the light of the judgment of the Division Bench of this Court, and pass

appropriate orders thereon, expeditiously, preferably within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

N.V.RAMANA, J

29th November, 2006.
GRR

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1 2001 (3) ALD 166 (DB)